Town of Milton
115 Federal St
Milton, DE 19968



www.milton.delaware.gov Phone: 302-684-4110

Fax: 302-684-8999

RESOLUTION 2015 - 010

A RESOLUTION TO REQUEST AN AMENDMENT OF THE CHARTER OF THE TOWN OF MILTON RELATING TO ITS ENUMERATED POWERS.

WHEREAS, Section 29 of the Town Charter identifies the enumerated powers vested in the Town Council of The Town of Milton; and

WHEREAS, The Town Council wishes to revise Section 29 to accomplish three purposes: 1) remove a limitation on its ability to adopt appropriate zoning and construction regulations for areas specifically near ponds, lakes, and rivers; 2) change the specific dollar amount limitation on the Town's funds levied and collected from real property taxes to a percentage, in order to allow continued growth; and 3) remove a potential ambiguity between the Town Charter and the Delaware Code regarding the limit on the Town's realty transfer tax;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Milton that a proposed amendment to Section 29 of the Charter of the Town of Milton be requested for passage by the Delaware State Legislature, with additions shown by underlining and deletions shown by strike through on the attached draft Bill, incorporated by reference.

BE IT FURTHER RESOLVED, that the Mayor or her designee is authorized to forward the original Resolution or a copy thereof, along with the draft Bill for introduction and whatever documentation may be required for the Town's State Senator and Representative, with a request to introduce said Bill to the General Assembly at the soonest possible time in the current Legislative session.

SYNOPSIS

The Resolution requests that the Delaware State Legislature amend the Town's Charter.

Section 1 removes a limitation on the Town's ability to adopt appropriate zoning and construction regulations for areas specifically near ponds, lakes, and rivers. The Town has adopted via ordinance construction and zoning regulations, with the latter being authorized in Chapter 3, Title 22 of the Delaware Code without the limitation presently in the Charter.

Section 2 involves the limit on the amount of real property taxes that the Town may levy and collect. Specifically, the bill substitutes a percentage for the "hard cap" of \$1,000,000. This is in recognition of continued growth and development adding to the taxable base, as well as the

increase in property values reflected in the last Town-wide assessment. These developments have contributed to the Town approaching the \$1,000,000 mark, which functionally serves as a limit on the Town's ability to allow continued growth.

Section 3 resolves a potential ambiguity between the Town Charter and Chapter 16, Title 22 of the Delaware Code. The Charter currently limits the Town's realty transfer tax to half of the State's transfer tax. Thus, under current wording of the Charter, the Town would be allowed to collect a transfer tax of 1% if the State collects a tax of 2%. However, Title 22, Section 1601 of the Delaware Code authorizes municipalities to collect a transfer tax not be greater than 1.5% of the value of the real property. The bill incorporates by reference the percentage limitation from the Delaware Code.

I, THE UNDERSIGNED, Secretary of the Town Council of the Town of Milton, do hereby certify that the above resolution was passed at the meeting of the Town Council, duly called and convened, held on the 11th day of May, 2015, at which a quorum was present and voting throughout and that same is still in full force and effect.

TOWN OF MILTON

BY:

SECRETARY OF TOWN COUNCIL

DATE:

19 MAY 2015

SPONSOR: Rep. Smyk & Sen. Lopez

148TH GENERAL ASSEMBLY HOUSE/SENATE BILL NO.

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MILTON RELATING TO ITS ENUMERATED POWERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Section 29(a)(10) of the Charter of the Town of Milton by making deletions as shown by strike through and insertions as shown by underline as follows:

(10) To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, or fills for the preservation of any strand, or high land within the limits of the Town, and contiguous thereto, to the end that the same may be preserved, property and protected that the general public might enjoy the use thereof, and to assure that all and any construction, apart from these listed above, begin 50 feet from the both high tidal and fresh water ponds, lakes and rivers. In any case, the Town of Milton must be in compliance with state and federal provisions.

Section 2. Amend Section 29(a)(26) of the Charter of the Town of Milton by making deletions as shown by strike through and insertions as shown by underline as follows:

(26) To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; provided, however, that the amount to be raised from this source shall not exceed in any one year the sum of One Million Dollars (\$1,000,000.00) equal to one half of one percent (0.5%) of the assessed value of all such taxable real property and improvements thereon situated within the corporate limits of the Town of Milton; and provided further that there shall be no limitation upon the amount which may be raised from the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether herein before or hereafter incurred;

Section 3. Amend Section 29(a)(27) of the Charter of the Town of Milton by making deletions as shown by strike through and insertions as shown by underline as follows:

(27) To levy and collect taxes upon the transfer of real property or any interest in real property situate within the corporate limits of the Town of Milton, regardless of where the instruments making the transfers are

made, executed or delivered or where the actual settlements on such transfers occur in accordance with Chapter 16, Title 22 of the Delaware Code; provided however, that no tax levied under this Section shall exceed fifty (50%) of any tax levied by the State of Delaware upon the same property; and provided further, that no tax shall be levied upon any organization exempted from valorem real estate taxes.

Section 4. Section 1 of this Act shall take effect on September 15, 2015. Sections 2 and 3 of this Act shall take effect immediately upon its enactment into law.

SYNOPSIS

This bill amends the Charter of the Town of Milton. Section 1 removes a limitation on the Town's ability to adopt appropriate zoning and construction regulations for areas specifically near ponds, lakes, and rivers. The Town has adopted via ordinance construction and zoning regulations, with the latter being authorized in Chapter 3, Title 22 of the Delaware Code without the limitation presently in the Charter.

Section 2 involves the limit on the amount of real property taxes that the Town may levy and collect. Specifically, the bill substitutes a percentage for the "hard cap" of \$1,000,000. This is in recognition of continued growth and development adding to the taxable base, as well as the increase in property values reflected in the last Town-wide assessment. These developments have contributed to the Town approaching the \$1,000,000 mark, which functionally serves as a limit on the Town's ability to allow continued growth.

Section 3 resolves a potential ambiguity between the Town Charter and Chapter 16, Title 22 of the Delaware Code. The Charter currently limits the Town's realty transfer tax to half of the State's transfer tax. Thus, under current wording of the Charter, the Town would be allowed to collect a transfer tax of 1% if the State collects a tax of 2%. However, Title 22, Section 1601 of the Delaware Code authorizes municipalities to collect a transfer tax not be greater than 1.5% of the value of the real property. The bill incorporates by reference the percentage limitation from the Delaware Code.